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November 30, 2015

VIA ELECTRONIC-FILING

The Honorable Christopher J. Burke
U.S. District Court for the District of Delaware
J. Caleb Boggs Federal Building
844 N. King Street
Wilmington, DE 19801-3556

Re: *International Business Machines Corporation v. The Priceline Group Inc., et al.*,
No. 1:15-cv-00137-LPS-CJB (D. Del.)

Dear Judge Burke:

Plaintiff International Business Machines Corporation (“IBM”) and Defendants The Priceline Group Inc., KAYAK Software Corporation, OpenTable, Inc., and priceline.com LLC (collectively “Defendants”) respectfully submit this joint letter pursuant to the Court’s August 18, 2015 Memorandum Order directing the Parties to provide an interim report on the progress of the case to date. D.I. 43.

On February 9, 2015, IBM filed its Complaint For Patent Infringement against Defendants for infringement of United States Patent Nos. 5,796,967, 7,072,849, 5,961,601, and 7,631,346. D.I. 1. On May 4, 2015, Defendants brought Defendants’ Motion To Dismiss, pursuant to 35 U.S.C. § 101 (“Motion To Dismiss”). D.I. 18. On July 2, 2015, Defendants filed Defendants’ Motion For Stay Pending Resolution Of Defendants’ Motion To Dismiss (“Motion For Stay”). D.I. 30.

On August 18, 2015, the Court granted-in-part and denied-in-part Defendants’ Motion For Stay. D.I. 43. The Court put forth a limited schedule, and reserved dates that the parties may be able to use, depending upon the timing and result of the Court’s resolution of the Motion To Dismiss, for a *Markman* hearing on May 23, 2016, oral argument on *Daubert* and dispositive motions on February 7, 2017, a pretrial conference on July 7, 2017, and a trial starting on August 14, 2017. *Id.* ¶ 8a. The Court also ordered the Parties to make limited productions of documents and disclosures, which included directing IBM to identify accused products by August 24, 2015, directing Defendants to produce core technical documents and sales figures for the accused products by September 11, 2015, directing IBM to produce initial infringement contentions and certain patent licenses by October 16, 2015, and directing Defendants to produce initial invalidity contentions by November 13, 2015. *Id.* ¶ 8b-e. The Court stayed the Parties’ obligations to respond to other discovery requests pending resolution of the Motion To Dismiss. *Id.* ¶ 8g. On October 27, 2015, the Court heard oral argument regarding the Motion To Dismiss. The Motion To Dismiss is *sub judice*.

The Honorable Christopher J. Burke

November 30, 2015

Page 2

The Parties have produced documents and contentions pursuant to the Court's August 18, 2015 order.¹

IBM Further States: IBM is prepared to proceed with discovery, and respectfully proposes that the stay be lifted when the Court issues its forthcoming report and recommendation concerning Defendants' Motion To Dismiss, and that one week later, the Parties submit an updated joint proposed scheduling order, consistent with the dates the Court has reserved on its schedule.

Defendants Further State: Defendants believe that the Court's August 18, 2015 Memorandum Order should continue to govern these proceedings, and thus the current Court-ordered stay shall remain in place "until the resolution of the Motion to Dismiss." *Id.* ¶ 8g.

The Parties are available for a status conference at the Court's convenience should the Court deem one necessary.

Respectfully Yours,

/s/ Bindu A. Palapura

Bindu A. Palapura (#5370)

BAP:nmt/1210424/42141

cc: Clerk of the Court (via hand delivery)
Counsel of Record (via electronic mail)

¹ Each Party reserves the right to challenge the sufficiency of the other parties' productions and disclosures.